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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,888	11/15/2000	James Nolan	1-2-148.1US	5233

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UNITED PLAZA, SUITE 1600
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PHILADELPHIA, PA 19103

EXAMINER

FREJD, RUSSELL WARREN

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,888

Applicant(s)

NOLAN ET AL.

Examiner

Russell Frejd

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-22 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/01, 2/03, 2/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

In re Application of: Nolan et al.

Examination of Application #09/712,888

1. Claims 2-22 of application 09/712,888, filed on 15-November-2000, are presented for examination. This paper is in response to applicant's amendment received 28-January-2005, in which claim 1 was cancelled.

Specification Objections

2. The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

The specification is objected to under 37 CFR 1.71 because of the reply from applicant on the date noted above, in which applicant went into great detail about the difference between "emulation" and "simulation", and that the present invention is directed to "emulating" signal impairments created by transmission components. Applicant even amended claim 2 to change the "simulation" limitation to "emulation", and repeatedly made the record clear that the presently claimed invention is an emulator. For this reason, the examiner duly notes that the specification is replete with language describing the present invention as performing simulation. For example, page 6, line 10, states that there is a need for the present system to simulate baseband impairments in signal quality. Also, page 7, lines 4-11, describe a single channel communication simulation, a full duplex simulation, and multipath signal distortion simulation, among various other simulations.

The examiner respectfully posits that the specification language is unclear as to whether the present invention is directed to "emulating" or "simulating", or at the very least, leaves open

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the present invention to scrutiny from simulations described in the prior art. The examiner respectfully asks applicant to clarify the invention as conforming to the arguments of the reply dated 28-January-2005, and amend the specification to conform to such arguments, or acknowledge the present invention as an emulator which performs a plurality of various simulations. Applicant is respectfully reminded that no new matter may be amended into the specification.

Claim Objections

3. Claims 2-22 are deemed allowable over the prior art of record at this time.

Response Guidelines

4. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

4.1 Any response to the Examiner in regard to this non-final action should be


directed to: Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, or the examiner's supervisor, Jean Homere, telephone number (571) 272-3780. Inquires of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist (571) 272-2100.

mailed to: Commissioner of Patents and Trademarks
P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to: (703) 872-9306

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

Date: 31-May-2005



**RUSSELL FREJD
PRIMARY EXAMINER**